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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0386**

State of Minnesota,
Respondent,

vs.

Matthew James Adams,
Appellant.

**Filed January 30, 2023
Affirmed
Smith, Tracy M., Judge**

Steele County District Court
File No. 74-CR-20-2031

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Daniel A. McIntosh, Steele County Attorney, Julia A. Forbes, Assistant County Attorney,
Owatonna, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Richard Schmitz, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Worke, Judge; and
Wheelock, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this direct appeal from the final judgment of conviction for possession of a
firearm and ammunition by an ineligible person, appellant Matthew James Adams argues

that there was insufficient evidence to show that he was guilty beyond a reasonable doubt. We affirm.

FACTS

On the morning of November 7, 2020, a verbal altercation occurred between Adams, Adams's wife M.A., and the Adamses' neighbor D.B. in the parking lot outside their apartments. A video taken by D.B.'s girlfriend, who was watching the altercation from inside D.B.'s apartment, showed M.A. saying, "Get the gun."

After the altercation, D.B. called the landlord and told her about the dispute and the involvement of a gun. The landlord contacted the police. Law enforcement responded to the scene, and an officer spoke with Adams. When the police officer asked Adams if he had a firearm in the home, Adams said he did not have a firearm, while nodding his head up and down.

On November 9, after learning that Adams was on probation, law enforcement, along with probation officers, searched the Adamses' apartment. Adams was present, as were M.A., M.A.'s 17-year-old brother, and M.A.'s mother. During the search, a probation officer found an unlocked ammunition box with multiple boxes of .22 caliber bullets in a hallway closet. A law enforcement officer located a firearm—a Mossberg .22 caliber long gun rifle—sitting on a ledge above the hallway closet. The rifle was not secured, and it had a round in the chamber and a magazine inserted.

The state charged Adams with possession of a firearm and ammunition by an ineligible person under Minnesota Statutes section 624.713, subdivision 1(2) (2020). At

trial, the parties stipulated that Adams was ineligible to possess a firearm or ammunition from November 7 through 9 of 2020.

At trial, the probation officer who found the bullets testified that the hallway closet also contained a safe, household supplies, and tools. The police officer who retrieved the rifle testified that the ledge with the rifle was about six and a half to seven feet off the ground. She testified that she was 5'10" and had to stand on a folding chair to reach the rifle. The police officer also testified that Adams was 6'8" and M.A. was about 5'4" or 5'5". On cross-examination, the police officer acknowledged that the rifle and ammunition were not tested for fingerprints or DNA.

M.A. was the sole witness for the defense. She stated that she lived with Adams at the apartment, along with their two children and M.A.'s 17-year-old brother. M.A. testified that, during the November 7 altercation, she asked her brother to bring the rifle to her and that, when he did, she held the rifle. M.A. also testified that she purchased the rifle from a friend, that she personally stored the rifle and ammunition, and that, following the November 9 search, she pleaded guilty to negligent storage of a firearm.

On cross-examination, when the prosecutor asked M.A. about the rifle, she could not identify the type of firearm it was, saying, "I'm not good at brand names." She did not know what caliber rifle it was, saying, "All I can tell you is it was a rifle." And when asked about ammunition, she said, "I couldn't tell you the size [of the] bullets to be honest." M.A. also struggled to describe how to load and fire the rifle. She said that she never used the firearm but later explained that she had fired and cleaned the rifle at a shooting range. When asked about the closet where the ammunition was found, M.A. said that she, Adams, and

their children used items stored in the closet, which included a shoebox with letters from Adams's father.

The jury found Adams guilty of possessing a firearm and ammunition. The district court sentenced him to 60 months in prison.

Adams appeals.

DECISION

Adams argues that his conviction must be reversed because the state did not provide sufficient evidence to prove beyond a reasonable doubt that he possessed the rifle and ammunition.

Because neither the rifle nor the ammunition was found on Adams's person, the state argued that Adams constructively possessed the rifle and ammunition. "Possession may be proved through evidence of actual or constructive possession." *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017). Actual—or physical—possession occurs when the defendant has "direct physical control" of the item. *State v. Barker*, 888 N.W.2d 348, 353 (Minn. App. 2016) (quoting *Jacobson v. Aetna Cas. & Sur. Co.*, 46 N.W.2d 868, 871 (Minn. 1951)). Constructive possession applies when the state "cannot prove actual or physical possession . . . but where the inference is strong that the defendant at one time physically possessed the [contraband]" and "continued to exercise dominion and control over [the contraband]." *State v. Florine*, 226 N.W.2d 609, 610 (Minn. 1975).

The state may prove constructive possession in either of two ways: (1) the contraband was found in a place under the defendant's exclusive control to which others did not have access; or (2) if the contraband was found in a place to which others had

access, “there is a strong probability (inferable from other evidence) that at the time the defendant was consciously or knowingly exercising dominion and control over [the item].” *Harris*, 895 N.W.2d at 601. Exercising dominion and control requires more than “mere proximity” to the contraband. *Id.* A person may jointly possess contraband with another. *Id.*

As an initial matter, Adams contends that constructive possession is inapplicable because the state did not provide evidence of past physical possession. The constructive-possession doctrine allows the state to prove possession when the state does not have evidence of physical possession at the time of the arrest, but the evidence still creates a strong inference that the defendant at one time physically possessed the contraband and did not relinquish that possessory interest. *See Florine*, 226 N.W.2d at 610-11. Adams argues that physical-possession evidence is necessary before even getting to the question of whether possession was relinquished. We are unpersuaded. Evidence of constructive possession *is* evidence of past physical possession. Requiring the state to provide other evidence of past physical possession would contradict the purpose of the constructive-possession doctrine.

Adams also argues that the evidence of constructive possession is insufficient to support the conviction. Because Adams did not have exclusive control over the location where the rifle and ammunition were found, the state’s theory was that he constructively possessed the rifle and ammunition by exercising control and dominion over them. The state relied on circumstantial evidence to prove that Adams possessed the rifle and ammunition.

“A conviction based on circumstantial evidence . . . warrants heightened scrutiny.” *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010). Appellate courts conduct a two-step analysis when evaluating the sufficiency of circumstantial evidence. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). First, we identify the circumstances proved. *Id.* In doing so, we “defer to the jury’s acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the [s]tate.” *Id.* at 598-99 (quotation omitted). Thus, we “consider only those circumstances that are consistent with the verdict,” meaning we assume the jury believed the state’s witnesses and disbelieved the defense’s witness. *Id.* at 599.

Second, we review the circumstantial evidence as a whole and “determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *Id.* In doing so, we do not defer to the jury’s choice between reasonable inferences. *Harris*, 895 N.W.2d at 601. Rather, we independently examine “the reasonableness of all inferences that might be drawn from the circumstances proved.” *Id.* “Circumstantial evidence must form a complete chain that, in view of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt.” *Al-Naseer*, 788 N.W.2d at 473.

We begin with the circumstances proved. With respect to the rifle, the circumstances proved are as follows. On November 7, when Adams was questioned following the altercation between him and his neighbor, Adams said there was no firearm in the apartment while nodding his head up and down. On November 9, law enforcement found

an unsecured, loaded rifle in the Adamses' apartment. The rifle was stored in plain view about six and a half to seven feet off the ground. A 5'10" police officer required a chair to retrieve the rifle, and Adams was 6'8" while M.A. was 5'4" or 5'5". Although the rifle had a round in the chamber and a magazine inserted, M.A. did not know the rifle's brand name or caliber and said that she did not use the rifle.

With respect to the ammunition, the additional circumstances proved are as follows. Law enforcement found bullets in an unlocked ammunition box in a closet in the Adamses' apartment, located below the shelf where the rifle was found. The bullets matched the rifle, and, again, M.A. did not know the size bullets that the rifle took. Along with the ammunition box, the closet contained letters from Adams's father and other household tools and supplies, and M.A. testified that she, Adams, and their children all used the items in the closet.

We now turn to the reasonable inferences from the circumstances proved. Adams appears to acknowledge that the circumstances proved yield the reasonable inference that he possessed the firearm and ammunition. Adams instead argues that the state's circumstantial evidence does not eliminate the rational hypothesis that he did not possess the rifle and ammunition.¹ He contends that, because M.A. claimed ownership of the rifle and ammunition, these circumstances are analogous to those in *Harris* and that his conviction should likewise be reversed. We disagree.

¹ Adams also contends that the district court applied the wrong legal test for constructive possession when denying his posttrial motion for a judgment of acquittal. But the legal issue that Adams actually briefs is whether the evidence is sufficient to support his conviction, and thus we limit our review to that question.

In *Harris*, the supreme court held that there was insufficient circumstantial evidence that the defendant constructively possessed a firearm found in the car that he was driving. 895 N.W.2d at 603. The supreme court concluded that there was a reasonable inference that the defendant did not know there was a firearm because the defendant did not own the car, there were two other occupants, and the firearm was not immediately visible when police searched the car. *Id.* at 602-03. As a result, in *Harris*, the circumstances proved did not preclude the reasonable hypothesis of innocence: that the defendant was unaware that there was a firearm in the car and thus did not “knowingly” exercise control over it. *Id.* at 603.

Here, in contrast, Adams acknowledges not only his knowledge of the rifle and ammunition but also his access and proximity to those items located in his apartment. The rifle was stored about six and a half to seven feet off the ground and Adams is 6’8”. The bullets were stored near letters from Adams’s father and other items that Adams used. And when a police officer asked Adams whether there were firearms in the apartment, Adams said, “No,” while nodding his head up and down.

Moreover, M.A.’s sole possession of the rifle and ammunition is not a reasonable inference. First, M.A.’s testimony that she owned the rifle does not refute that Adams possessed the rifle. *See State v. Salyers*, 858 N.W.2d 156, 160 n.3 (Minn. 2015) (“[A] person may possess property even if another person owns that property.”). Second, the circumstances proved are not consistent with M.A.’s sole possession. M.A. was only 5’4” or 5’5” and would require a chair or ladder to access the rifle, unlike Adams. M.A. also testified that she did not use the rifle and, when asked, did not know the rifle’s brand name

or caliber. And M.A. struggled to describe how to load and fire the rifle even though the rifle had a round in its chamber and the magazine inserted.

In sum, unlike in *Harris*, the circumstances proved here lead only to the inference that Adams possessed the rifle and ammunition, either individually or jointly. Thus, the circumstantial evidence is sufficient to sustain Adams's conviction.

Affirmed.